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Before the
Federal Communications Commission
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of:

NYNEX Comparably
Efficient Interconnection
Plan For Payphone Services

CC Docket No. 96-128

INITIAL COMMENTS
OF THE
NEW ENGLAND PUBLIC COMMUNICATIONS COUNCIL, INC.

**NEW ENGLAND PUBLIC
COMMUNICATIONS COUNCIL, INC.**

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Dated: February 7, 1997

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SUMMARY

As a regional trade association made up largely of independent payphone providers in New England, the NEPCC has a strong interest in the terms of NYNEX's Comparably Efficient Interconnection ("CEI") Plan. The NEPCC's analysis is based on the framework developed by the American Public Communications Council in analyzing other, previously-filed CEI plans. Employing that framework, NEPCC believes the NYNEX Plan is deficient because (a) it fails to include federal tariffs, (b) it fails to unbundle coin line features from the basic payphone line, (c) it fails to disclose a pricing methodology and lacks sufficient information on rates, (d) it contains insufficient information on the availability of coin line service, (e) it restricts call rating and operator service selection on coin lines, (f) it contains insufficient information on service order processing, installation maintenance and repair service plans, (g) it contains insufficient information on number assignment policy and screening code procedures and (h) it fails to address NYNEX intraLATA operator services. For these reasons, the NYNEX Plan, as filed, must be rejected as not complying with the Commission's Orders in CC Docket 96-128.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)
)
)

NYNEX Comparably)
Efficient Interconnection)
Plan For Payphone Services)
_____)

CC Docket No. 96-128

**INITIAL COMMENTS
OF THE
NEW ENGLAND PUBLIC COMMUNICATIONS COUNCIL, INC.**

The New England Public Communications Council, Inc. ("NEPCC"), acting through counsel and in accordance with FCC Public Notice, DA 97-31, released January 8, 1997, hereby submits its Initial Comments concerning the Comparably Efficient Interconnection Plan filed by NYNEX with the Commission on January 3, 1997 in accordance with the Commission's requirements imposed in Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket Nos. 96-128 and 91-35, Report and Order, FCC 96-388, released September 20, 1996 ("Payphone Order"), and Order on Reconsideration, FCC 96-439, released November 8, 1996 ("Reconsideration Order") (collectively "Payphone Orders"). In support of its Initial Comments, NEPCC states the following:

I. INTRODUCTION

1. The NEPCC is a non-profit corporation whose membership includes independent payphone providers ("IPP") currently offering competitive payphone services in 5 of the 6 New England States. As such the NEPCC has a direct and substantial interest in the terms and conditions of NYNEX's CEI Plan ("Plan"), since the Plan will directly affect competition between IPPs and NYNEX's own payphone services in this region.

2. NEPCC's analysis of the NYNEX Plan is framed by the history of discriminatory treatment that led to the enactment of Section 276 of the Communications Act of 1934, as amended ("Act"). The analysis employs the excellent framework established by the American Public Communications Council in its review of other, previously-filed CEI Plans.^{1/} Applying that analytical framework, in several key areas NYNEX's Plan is either non-compliant or does not contain sufficient information to enable the Commission to determine that the Plan meets the requirements of the Payphone Orders and the other relevant FCC rules applicable to CEI plans. First, NYNEX has provided no federal tariffs despite the explicit directive of the Reconsideration Order to do so. Second, NYNEX's tariffs, including the one filed for Massachusetts, do not consistently unbundle coin line features from the basic payphone line. Third, NYNEX fails to disclose its methodology for pricing coin lines versus Public Access Line ("PAL") services. Fourth, NYNEX appears to restrict the call rating that is available on coin lines, to rates established by NYNEX. Fifth, NYNEX provides only summary assurances about the procedures it will follow regarding service order processing, installation, maintenance and repair service. Sixth, the Plan does not adequately address the assignment of line numbers. Seventh, it fails to

^{1/} See, e.g., Comments of the American Public Communications Council on Ameritech's CEI Plan, January 3, 1997; Comments of the American Public Communications Council, December 30, 1996 (BellSouth CEI Plan).

provide detail on the types of screening service codes that NYNEX will offer to independent and its own payphones. Finally, NYNEX neglects to address its own intraLATA operator services.

II. THE NYNEX PLAN FAILS TO INCLUDE ANY FEDERAL TARIFFS

3. NYNEX has failed to attach any federal tariff to its Plan. This is a basic requirement for local exchange carrier CEI plans. Moreover, it is a specific requirement of the Reconsideration Order. Unbundled features or functions must be tarified in the state and federal jurisdiction. Reconsideration Order, at ¶¶ 162, 163. The only service exempt from the federal tariff requirement is "the basic payphone line for smart and dumb payphones." Id., at ¶ 163. Thus, the Plan cannot be approved until the appropriate federal tariffs are filed.

III. NYNEX'S TARIFFS FAIL TO UNBUNDLE COIN LINE FEATURES FROM THE BASIC PAYPHONE LINE

4. The Reconsideration Order provides that "any basic network services or unbundled features used by a LEC's operations to provide payphone services must be similarly available to independent payphone providers on a non-discriminatory, tarified basis" at both the state and federal level. As noted above, the "basic payphone line" is to be unbundled and tarified only at the state level. Reconsideration Order, at ¶ 162.

5. NYNEX's tariffs fail to consistently unbundle the "basic payphone line" separately from network services and unbundled features. For example, the Basic Coin Access Line (1 and 2) in Massachusetts include "blocking features" which "consist of originating number screening-operator screening, terminating number screening and selective blocking." New England Telephone and Telegraph Company, Mass DPU 10, Part A, Section 8.1.4A3; see also PUC Me 15, Part 8, Section 8.1.4A3; NHPUC, No. 77, Part A, Section 8.1.4.A3. The same

applies to the two other coin line offerings in each tariff. This bundling implies that there is no separate, extra charge for the call screening accompanying the coin line.

6. On the other hand, the same tariffs appear to impose a separate charge for less comprehensive "blocking features" for "Curb A Charge" when PAL service is involved. Compare Mass DPU 10, Part A, Section 8.2.1C; PUC Me 15, Part A, Section 8.2.1C; NHPUC No. 77, Part A, Section 8.2.1C. This difference in treatment is clearly discriminatory and in violation of Section 276 of the Act. NYNEX must be required to refile its Plan and cannot be permitted to differentiate how it applies charges for screening to coin lines and PALs.

***IV. NYNEX MUST BE REQUIRED TO DISCLOSE ITS
PRICING METHODOLOGY FOR COIN
LINE AND PAL SERVICE***

7. Under Section 276 of the Act, the Commission must ensure that all subsidies and discrimination in favor of NYNEX's payphones are eliminated. In order to do so, the Commission must engage in an assessment of the rate levels for the basic services to be offered on coin lines and PALs, particularly since the former, at least for the near future, in reality can only be used predominantly by NYNEX payphones. IPPs have been forced to invest in instrument-implemented phones connected to PAL-type service. They cannot immediately abandon this equipment without stranding millions of dollars in prior investments.

8. First, NYNEX's filing fails to provide sufficient information for the Commission to make such an assessment in certain cases. There is no monthly PAL rate information provided for Massachusetts, Rhode Island, New Hampshire, or Vermont.

9. Moreover, in Connecticut, New York and Maine the differences between basic coin line and PAL rates vary. In New York, it is approximately \$16.00; in Maine it is \$10.00; in

Connecticut it ranges from \$5.48 to \$9.42. Whatever the rate differential, to comply with Section 276, it must be sufficient to recover the cost of providing the coin line functionality "added" to the basic payphone line. In the case of PAL service this functionality is provided by the terminal equipment itself. If the differential does not recover the additional costs of coin line functionality, there is discrimination and subsidy favoring NYNEX, which is the principal beneficiary of low coin line rates.

10. Thus, in addition to providing the further rate information necessary to make a rate comparison, NYNEX must disclose the rate methodologies employed to develop its PAL and coin line service charges. The Commission must determine that the same pricing methodology was used for each service and that the coin line service is no longer subsidized. Use of different pricing methodologies would mean that NYNEX is discriminating and subsidizing its own payphone operations.

**V. NYNEX UNBUNDLING OF INDIVIDUAL FEATURES
FAILS TO COMPLY WITH CEI PLAN REQUIREMENTS**

11. NYNEX offers unbundled answer supervision for PAL service in New York and Connecticut. But it does not offer such a service in the other state tariffs attached to its Plan. If NYNEX is offering an unbundled service in one state, then it should be required to offer it in other states as well. The Commission should "benchmark" the unbundled services offered by one local exchange carrier in one state against those offered in the other states it serves.

12. NYNEX coin line service also fails to meet CEI plan requirements in several other key aspects.

a. Availability of Coin Line Service

13. In Massachusetts, for example, NYNEX's coin line service is "available in suitably equipped central offices where sufficient facilities exist." MDPU 10, Part A, Section 8.1.2A; see also NHPUC No. 77, Part A, Section 8.1.2A; P.U.C.-R.I.-No. 15, Part A, Section 8.1.2A. NYNEX's Plan does not disclose to what extent coin line service is unavailable or whether any of its existing base of payphones is located in areas of non-availability. If it does have any such phones in those areas, NYNEX must convert them to PAL service. Otherwise, it would be providing itself with such service, while claiming it was "unavailable" to others.^{2/} Further, NYNEX fails to disclose where measured service or flat service is available for coin lines. See e.g., MDPU 10, Part A, Section 8.1.6D. This information is also directly relevant to determining whether NYNEX will apply more favorable flat rates to itself while they are effectively unavailable to IPPs.

b. Specific Call Rating

14. It would appear that subscribers to NYNEX's coin line service will not be able to decide on their own rates. In Massachusetts, for example, rates for "local messages on a collect, bill to a third telephone number, or charge to a Calling Card basis", "for local service on a Prepaid Calling service basis," and for "MTS calls" are set in specific sections of the tariff, which sections are not provided with the Plan filing. MDPU No. 10, Part A, Section 8.1.5D, E. The tariff also sets message units on local service on a LATA by LATA basis. Id., at Section 8.1.5A,

^{2/} Moreover, NYNEX should be required to disclose in its Plan generally how it plans to provide payphone service, whether through coin lines or PAL interconnections in each area. If the Commission is to effectively determine that NYNEX's Plan has eliminated subsidies and discrimination, the Commission must know the extent to which NYNEX continues to rely on network services that, in reality, are not effectively available to IPPs.

B. Rates for message units are also set in the tariff. Id., at Part M, Section 1.8.1. Other tariffs filed with the Plan include similar rate controls. See e.g., NHPUC No. 77, Part A, Sections 8.1.5A, B, D; Part M Section 1.8.1; P.U.C.-R.I.-No. 15, Part A, Section 8.1.5A, B; Part M Section 1.8.1; P.S.B.-Vt.-No. 20, Part A, Section 8.1.5A, B, D; Part M, Section 1.8.1.

15. Providing a coin line that rates calls only at the end user rates used by NYNEX's own payphone operations is clearly discriminatory. It destroys the utility that a coin line service would otherwise have for IPPs. By forcing such providers to charge their competitor's rates, it stifles the development and implementation of innovative rate structures such as "call anywhere in the U.S. for 25 cents per minute" - an offering that is already deployed in parts of New England (Massachusetts in particular).

c. Operator Service Provider ("OSP") Selection

16. NYNEX's Plan does not address the matter of OSP selection. Section 276 of the Act provides that IPPs are entitled to select the OSP for intraLATA operator-assisted calls. Further, with respect to 0-calls, the Commission has stated that while states can require that 0-calls be routed to local exchange carriers for emergency purposes, non-emergency 0-calls should be sent to the OSP designated by the IPP. Payphone Order, at ¶ 259.

17. NYNEX, in Massachusetts, has proposed in its intraLATA presubscription filing that 0-calls be sent exclusively to its operators until sometime in the first half of 1998. See Exhibit 1. Perhaps that is why NYNEX did not mention this subject in this context. NYNEX cannot, with respect to payphone providers, require such routing.

18. NYNEX must be required to refile its Plan, making clear how it will provide, throughout its region, coin line and PAL subscribers the ability to route non-emergency 0-calls to their chosen OSPs.

***VI. SERVICE ORDER PROCESSING, INSTALLATION MAINTENANCE
AND REPAIR SERVICE MUST BE NONDISCRIMINATORY***

19. NYNEX provides scant information about the procedures it will follow regarding service order processing, installation, maintenance and repair service. Although NYNEX assures the Commission that NYNEX treatment of IPPs and its own payphone operations, will be "the same", there is not much more describing how this equality of treatment will occur. NEPCC has experienced significant problems in the past with unequal treatment in Massachusetts. See Exhibit 2. For this reason, the Commission must require NYNEX to submit more details on how it intends to ensure that equal treatment occurs. This should include more specific information on nondiscriminatory practices with respect to location of the demarcation point.^{3/}

20. NYNEX represents that "absent customer consent, NYNEX's PSP marketing and sales personnel will be restricted from access to the CPNI associated with other customers or PSPs." NYNEX Plan, at 10. But NYNEX has not committed to avoiding the sharing of personnel between NYNEX and its payphone operations, particularly in installation, repair and maintenance functions (including service order processing). This is the one truly effective way to present the leakage of sensitive information of competitive significance. The NYNEX Plan should be required to include such a commitment.

^{3/} Further, the NYNEX Plan does not state specifically how maintenance and repairs will be handled for the existing payphone base where no network interface has yet been installed. This is important to establish at what point wire maintenance charges should be charged separately or included as part of the tariffed access service.

***VII. NUMBER ASSIGNMENT POLICY AND SCREENING
CODE PROCEDURES MUST BE CLARIFIED***

21. The Payphone Order requires NYNEX to be nondiscriminatory in assignment of line numbers to payphones. Payphone Order, at ¶ 149. NYNEX's Plan states that it will treat affiliated and non-affiliated PSPs on a nondiscriminatory basis with respect to any "fraud protection and special numbering assignments." NYNEX Plan, at 4. However, NYNEX should be required to indicate in its Plan what its number assignment policy is and how the policy is applied to NYNEX payphone operations and IPPs.

22. Further, NYNEX's Plan fails to provide any detail on the types of screening codes NYNEX will offer to IPPs and NYNEX payphones. Prior to the Payphone Order the Commission directed local exchange carriers to provide an improved version of originating line screening ("OLS") that would enable interexchange carriers to uniquely identify calls originating from independent payphone providers using PAL service. See Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Third Report And Order, FCC 96-131, released April 15, 1996. This was in part the outgrowth of a spate of problems with fraud experienced by independent payphone providers, who were traditionally assigned an "07" code, which merely indicates the presence of calling restrictions and can be assigned to a variety of non-payphone lines. Local exchange company payphones, including NYNEX's, have a unique "27" code assigned to their coin lines.

23. The "07" code is decidedly inferior to the unique "27" code. Such inferior treatment is inconsistent with the nondiscrimination requirement of Section 276 of the Act. Furthermore, the Payphone Orders buttress the requirement that IPPs be able to transmit codes

that enable interexchange carriers to identify calls as generated by IPPs. Reconsideration Order, at ¶ 94.

24. The unique "27" screening code also gives NYNEX payphones a marked edge in the collection of per-call payphone compensation. With such a code, the interexchange carrier has great difficulty in questioning compensability of the call. Without such a code, IPPs would have to continue to use a potentially unreliable database, with associated delay and additional costs. If NYNEX is assigning a unique screening code to its own payphones, while denying it to those of IPPs, it is discriminating in its own favor. The Commission cannot allow NYNEX to do so.^{4/}

***VIII. OPERATOR SERVICES WITH NYNEX PAYPHONES
CANNOT BE DISCRIMINATORY***

25. NYNEX's Plan does not discuss the intraLATA operator services associated with its payphones. NYNEX must specify whether it considers those services part of its deregulated payphone service or a separable, non-"ancillary" service.

26. If these services are part of NYNEX's payphone service, NYNEX must explain whether they are resold network-based, operator functions or provided in the NYNEX payphone itself. NYNEX must also identify the network functions supporting such services and indicate how those same functions will be offered to IPPs on a non-discriminatory basis.

27. If such services are non-ancillary, NYNEX must still demonstrate that it is not subsidizing or discriminating between its own payphone services and competitors in the provision of such services. For example, NYNEX cannot offer its own payphone operations

^{4/} If NYNEX currently provides some other form of call tracking services to its own payphones, it must provide the same to IPPs on the same terms and conditions or cease providing such services to its own payphones until it is available to IPPs.

commissions for presubscribing to NYNEX intraLATA operator services, without offering such commissions on the same terms and conditions to IPPs. The Commission must require NYNEX to submit a copy of any such presubscription contract used with its own payphone operations and commit that the same terms will also be available to IPPs.

IX. CONCLUSION

28. Comprehensive, complete CEI Plans are critical if the objectives of Section 276 of the Act are to be achieved. NYNEX's Plan falls short in several fundamental respects. It should be rejected as filed. Upon refiling, there must be a reasonably sufficient period for review to ensure that NYNEX got it right this time around.

Respectfully submitted,

**NEW ENGLAND PUBLIC
COMMUNICATIONS COUNCIL, INC.**

By: 

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Dated: February 7, 1997

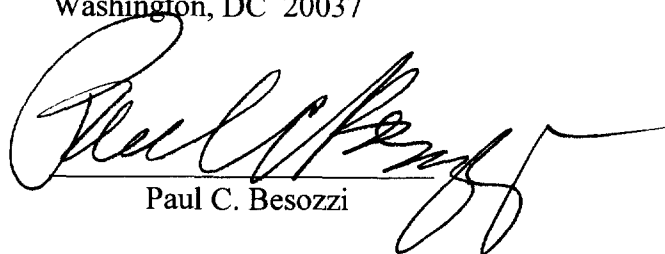
CERTIFICATE OF SERVICE

I hereby certify that on February 7, 1997, a copy of the foregoing Initial Comments of the New England Public Communications Council, Inc. on NYNEX's CEI Plan was sent by first class United States mail or hand delivered (*) to:

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Paul C. Besozzi

EXHIBIT 1

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William J. McIntyre
Vice President - Massachusetts

NYNEX

TT96-87

October 30, 1996

Department of Public Utilities
Commonwealth of Massachusetts
100 Cambridge Street
Boston, Massachusetts 02202

We are filing herewith as of October 30, 1996, for effect November 29, 1996, tariff material consisting of the following:

D.P.U. - Mass. - No. 10

- Part A - Section 1 - Revision of page 11
- Section 5 - Revision of pages 36 and 41

D.P.U. - Mass. - No. 15

- Section 1 - Revision of page 14
- Section 2 - Revision of page 1
- Section 6 - Revision of page 8
- Section 14- Original of pages 2 through 8
 - Revision of page 1
- Section 30- Revision of page 63

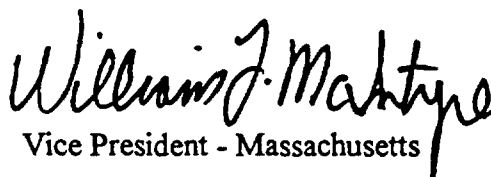
This filing presents tariffs and an Implementation Plan that introduce intraLATA presubscription (ILP) in Massachusetts. IntraLATA presubscription allows local exchange customers the option of selecting and designating either their local exchange company, their interLATA carrier or another carrier as the presubscribed carrier to provide their intraLATA toll calls, without having to dial an access code to reach that carrier.

These tariffs comply with the ILP requirements established in the Telecommunications Act of 1996 (Act) and the Federal Communications Commission's (FCC) Second Report and Order. The Company has filed a Petition for Reconsideration and/or Clarification (PFR) of the Second Report and Order on October 7, 1996 that addresses a few ILP issues. The Company's position is reflected in the illustrative tariff-Section 14, Page 3 included in this filing. Should the FCC rule favorably upon the Company's position in the PFR, the Company will take steps to replace D.P.U. -Mass.-No. 15 Access Service, Section 14, Page 3 with the illustrative Page 3.

Also, in compliance with the Act and the FCC's Second Report and Order, this tariff will be implemented coincident with the Company's entry into the long distance market in Massachusetts.

Attached are the necessary copies of the tariff pages and support material. Please return the two copies of the pages with your stamp of receipt.

Respectfully submitted,
NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY


Vice President - Massachusetts

Attachment

New England Telephone and Telegraph Company**14 IntraLATA Presubscription (ILP) Services** (T)**14.1 IntraLATA Presubscription** (N)

14.1.1 Description	
A.	ILP is an arrangement whereby an exchange service customer of the Telephone Company designates either the Telephone Company or another carrier as its presubscribed interexchange carrier (ILP PIC) for calls made from the customer's exchange access line, without the customer having to dial an access code. Calls which qualify for ILP are intrastate intraLATA toll calls as defined in D.P.U. Mass. No. 10.
1.	Customers have the option to use access code dialing as an alternative to designating either the Telephone Company or other carrier as their ILP PIC. When the customer opts for access code dialing, dialing will be in the form of 10XXX, 101XXXX or other access code for all calls to all carriers or to the Telephone Company to complete intraLATA calls.
•	Customers who designate either the Telephone Company or another carrier as their ILP PIC, may use access code dialing on a selective basis in order to specify a different carrier to carry particular qualifying calls to reach their carrier of choice, or by using any other service options that route calls to particular carriers.
B.	In addition to calls within the customer's local calling area, the following categories of calls made from a customer's line will be carried over the Telephone Company network, notwithstanding the ILP PIC selection for that line.
1.	Calls completed by a Telephone Company operator (0-) will be carried over the Telephone Company network until software permitting otherwise is available
2.	Calls to N11 codes (e.g., 411, 911) and 555 prefixed codes
3.	Circuit 9
4.	Customized Intercept-Call Completion Service
5.	Directory Assistance calls dialed without a carrier access code
6.	FG2A or FG3A
7.	Group Bridging Service
8.	Information Delivery Services
9.	Media stimulated calling (e.g., 931)
10.	Operator Call Completion Service

(N)

Issued: October 30, 1996
Effective: November 29, 1996

William J. McIntyre
Vice President - Massachusetts

To be implemented upon the receipt of authorization to provide in-region interLATA services for Massachusetts pursuant to Section 271 of the Telecommunications Act of 1996.

New England Telephone and Telegraph Company

14.1.1 Description	
C.	Only one ILP PIC may be selected for a single exchange access line, however the customer can select an ILP PIC that is different from their designated interLATA presubscription carrier.
1.	The subscriber to an exchange access line is responsible to select the ILP PIC for that line.
2.	For exchange access lines used to provide payphone service, the payphone service provider is the subscriber to the line and is responsible for notifying the Telephone Company of the ILP PIC.

Issued: October 30, 1996

Effective: November 29, 1996

William J. McIntyre
Vice President - Massachusetts

To be implemented upon the receipt of authorization to provide in-region interLATA services for Massachusetts pursuant to Section 271 of the Telecommunications Act of 1996.

EXHIBIT 2



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

February 19, 1991

D.P.U. 89-20

Investigation by the Department on its own motion into the provision of pay telephone service, including service provided by customer-owned coin-operated telephones.

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MELO-TONE, INC.
Intervenors

VII. ANTICOMPETITIVE PRACTICES

A. Installation and Service Problems

1. Positions of the Parties

MPA claims that NET is attempting to eliminate competition in the payphone market by providing inferior service to pay-telephone providers (MPA Brief, p. 18). MPA alleges, among other things, that NET does not: properly maintain PAL service; meet installation dates; give notice to pay-telephone customers of installation delays; remove its own payphones in a timely manner when other pay telephones are replacing them; install PALs properly; respond in a timely fashion to service complaints made by pay-telephone providers; and treat pay-telephone providers in the same manner as its other business customers with respect to disconnection and payment dates and deposit amounts on new lines (*id.*, pp. 19-20).

With respect to MPA's allegation that PALs provided by NET are often dead or inoperable, MPA cites the following example: in the second half of 1987, over 30 percent of Melo-Tone's installed PALs went dead at various times for no apparent reason (Exh. MPA-26, Attachment F). MPA also claims that the analysis of line outages contained in a study conducted by NET in October 1988 is not reliable since NET informed personnel responsible for preparing the report that its purpose was to rebut MPA's allegations (MPA Brief, p. 24, citing Exh. NET-31, at 65).

With respect to MPA's allegation that NET routinely misses PAL installation dates, MPA cites an IMR account for Friendly's Restaurants in which 37 percent of the lines were not installed

and in working order on the dates scheduled with NET (MPA Brief, pp. 34-35, citing Exh. MPA-26, Attachment H).

MPA claims that NET has neither investigated nor explained satisfactorily these alleged service problems (MPA Brief, pp. 23-37). MPA asks the Department to order NET to deliver services to NET's payphone operations through a separate subsidiary and to deliver services to non-NET pay telephones through NET's business offices (MPA Reply Brief, p. 44). MPA argues that a segregation of functions will prevent pay-telephone providers from having to compete directly with NET's Public Communications group ("NET PubComm"). According to MPA, NET PubComm is now responsible for offering PAL and other services to pay-telephone providers and for NET's own pay-telephone services (MPA Brief, p. 13). MPA alleges that NET PubComm uses confidential business information acquired as the provider of services to pay telephones (*id.*, p. 56). MPA argues that NET PubComm personnel have the information, incentive, and ability to provide inferior service to pay telephones and alleges that service problems are the product of deliberate actions by NET employees (MPA Reply Brief, p. 11, citing Exh. MPA-16, pp. 12-14). MPA also alleges that NET is conducting an anticompetitive advertising campaign designed to discourage use of non-NET pay telephones (MPA Brief, p. 21).

Omega presents similar arguments to those set forth by MPA. Omega argues that NET has control over the quality and reliability of pay-telephone providers' service (Omega Brief, p. 8). Omega states that when NET fails to rectify a problem

promptly, pay-telephone providers lose revenues and end users are left with a negative impression about the quality of non-NET pay telephone services (id., pp. 8-9). Omega argues that NET unilaterally sets deposit requirements and determines the timing and manner in which pay-telephone providers receive credits (id., pp. 12-13). Omega claims that NET's possession of sensitive information regarding its competitors' activities has contributed to problems with the quality and reliability of NET's PAL used by pay-telephone providers (id., p. 7). Omega also argues that the Department should order NET to establish a separate subsidiary for its payphone operations (id., p. 27). Omega argues that a separate subsidiary would help prevent the misuse of competitively sensitive information (id.).

NET argues that some of MPA's service complaints represent isolated occurrences, misunderstandings, and mistakes on MPA's part, while others represent genuine difficulties NET has encountered in meeting the special requirements of pay-telephone customers (NET Brief, p. 24). NET claims that some service problem allegations were brought to NET's attention for the first time during the proceedings in this case (id., pp. 24-25). NET also claims that some problems have already been resolved by various changes implemented by NET (id., p. 24).

Regarding MPA's allegation that NET treats pay-telephone customers differently from other business customers with respect to line-deposit requirements and credit practices, NET claims that it merely applied its general guidelines for individual